

Task Force on the Future for Growth and Development

AGENDA

September 22, 2008

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- I. Welcome/Administrative Matters
 - II. Update: PFA and APFO Workgroups
 - III. Final Report: Infrastructure Assessment Workgroup
 - IV. Transfer Development Rights (TDR Briefing)
 - V. Final Terrapin Run Recommendation
 - VI. Revised Draft Recommendations and Solicitation of Additional Recommendations
 - VII. Public Comments

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Beverages/light snacks will be provided.

Future Meetings (All meetings are from 1- 4:00 pm)

***October 15, 2008**

October 27, 2008

***November 12, 2008**

November 24, 2008

***Denotes new meeting dates.**

***Maryland Department of Planning
301 W. Preston Street
Olmsted Conference Room 11th Floor***

**Statement of
the Task Force on the Future for Growth and Development in Maryland
regarding the Maryland Court of Appeals Decision in
*Trail, et al. v. Terrapin Run, LLC, et al.***

For Adoption on September 22, 2008

The Task Force has reviewed the opinions of the Court of Appeals in *Trail, et al. v. Terrapin Run, LLC, et al.*, No. 44, September Term, 2007 (March 11, 2008). The issue decided in the case, on which the court split 4 to 3, is relatively narrow. Language in the majority opinion, however, could be interpreted to mean that local land use ordinances and regulations need not be consistent with the locally adopted comprehensive plan. The Task Force rejects such an interpretation.

The state law is clear that a local jurisdiction is required to implement the provisions of the comprehensive plan it develops. Section 4.09 of Article 66B, which was apparently not considered by any of the courts in the *Terrapin Run* case, unambiguously states that “a local jurisdiction shall ensure that the implementation of the provisions of the plan...are achieved through the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan.”

A local jurisdiction faces a challenge when it attempts to develop a comprehensive plan. It must synthesize the various required elements into a coherent whole. It must involve the public in developing the plan. It must reconcile conflicting ideas of the future of the jurisdiction. A good comprehensive plan does not predetermine every land use decision that will be made, but it charts a course for the jurisdiction. The plan is not a straightjacket, but neither is it merely advisory. Unless and until it is revised, the course it lays out should be implemented, and land use ordinances and regulations should be consistent with the local comprehensive plan.

Because comprehensive plans play a central role in the state land use laws, and because the majority opinion in the *Terrapin Run* decision could be interpreted to undermine that role, the Task Force recommends amending Article 66B to remove any ambiguity and make it clear that a local jurisdiction must implement and follow the comprehensive plan it adopts.
